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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/808,851	03/15/2001	David P. Veilleux	10261US01 (EKC 90079)	5248
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BETH READ PATENT LEGAL STAFF EASTMAN KODAK COMPANY 343 STATE STREET ROCHESTER, NY 14650-2201			VIG, NARESH	
			ART UNIT	PAPER NUMBER
			3629	
DATE MAILED: 10/07/2005				

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 09/808,851	Applicant(s) VEILLEUX ET AL.	
	Examiner Naresh Vig	Art Unit 3629	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 20 July 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1, 3 - 6, 8 - 16, 18 - 21, 24 - 36, 38 - 41 and 44 - 74 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1, 3 - 6, 8 - 16, 18 - 21, 24 - 36, 38 - 41 and 44 - 74 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

This is in reference to response received 20 July 2005 to the office action mailed 22 April 2005. There are 66 claims, claims 1, 3 – 6, 8 – 16, 18 – 21, 24 – 36, 38 – 41 and 44 – 74.

Response to Arguments

In response to applicant's argument that applicant's pending claims recite techniques that include characterizing colorimetric responses of display devices associated with source client and destination clients by delivering a series web pages to the source and destination clients that guide the clients through a color profiling process.

However, cited reference EColor teaches to install a filter on source web servers and EColor handles the rest. EColor deliver perfectly adjusted color right to destination monitors. EColor does not teach to limit their system and method to a single type of source device. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made that EColor has to perform some sort of calibration on source device to determine what filter to use. For example, Video Display Hardware on source device could be different on various servers manufactured by plurality of server provider. Also, on page 3, paragraph 4 applicant agrees "different buyers have different display, but different sellers may also have different displays.

In response to applicant's argument that the image may not generate from a single source, but rather, from thousands of generally anonymous sellers acting as source clients. Applicant is arguing EColor is Business to Consumer and applicant's invention is Consumer to Consumer.

However, in an online transaction, consumer acquires product from a supplier. In this case, supplier is a business and purchase is a consumer. As responded to earlier, EColor teaches calibrating source. Limiting use of system and method to a specific industry is field of use. Also, applicant has not claimed that source client is not a destination client in other transactions. In addition, applicant has not claimed calibrating source client for every transaction. Therefore, if the applicant source client can also be a destination client for other transactions, then EColor teaches the limitation of calibrating the source client.

In response to applicant's argument for characterizing calorimetric responses of a display device requiring delivery of series of web pages to source and destination clients.

However, EColor teaches calibrating using series of web pages to calibrate client device. One of ordinary skill in the art send series of web pages to source device for calibration to determine what filter to use on source device.

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In response to applicant's argument that a conventional retail establishment website, for example, would be aware of its own color characterization, and, would therefore only need to execute color characterization from the destination clients in order to render accurate color.

However, as responded to earlier, applicant is not claiming characterizing source client for every transaction. As responded to earlier, both, applicant and EColor in view of Bernard teach to calibrate source client once, and, not for every transaction.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1, 3 – 6, 8 – 10, 16, 18 – 21, 24 – 28, 35, 36, 38 – 41 and 44 – 46 are rejected under 35 U.S.C. 103(a) as being unpatentable over EColor Incorporated hereinafter known as EColor in view of Bernard et al. US Patent 6,744,448 hereinafter known as Bernard.

Regarding claims 1, 16 and 36, EColor teaches system and method for delivering accurate color for online images [page 11]. EColor teaches characterizing colorimetric responses of display devices associated with destination clients by delivering a series of web pages to the source and destination clients that guide the clients through a color profiling process [page 11]. Ecolor does not teach characterizing colorimetric responses of display devices associated with source clients. However, Bernard teaches system and method for color imaging technology. Bernard teaches conventional methods for color corrected digital images require the characterization of a video system used to create a digital image (source) and the characterization of a video or printing system that is displaying the color corrected image (client). This is typically done by matching the display properties of the source and client, either by mathematical transforms of respective color spaces or by forcing the source and client into a matching color state.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify EColor as taught by Bernard and characterize colorimetric responses of display devices associated with source clients to understand what correction needs to be performed on the source image so it is displayed accurately on the destination client.

EColor in view of Bernard teaches:

receiving color images from the source clients via a computer network [page 12]

modifying the color images based on the colorimetric responses of display devices associated with the source clients (responded to earlier)

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modifying the color images based on the colorimetric responses of display devices associated with the destination client [page 12]

communicating the modified color images to the destination clients via the computer network [page 12].

Regarding claims 3, 18 and 38, EColor in view of Bernard teaches modifying the color images at a network server, wherein the network server includes a web server (design choice), and the images are accessible via a web site served by the web server [page 12].

Regarding claims 4, 19 and 39, EColor in view of Bernard teaches modifying the color images at a network server before communication of the color images to the destination clients [page 12]

Regarding claims 5, 20 and 40, EColor in view of Bernard does not teach source clients include auction sellers, the images represent auction items, and the destination clients include auction buyers. However, Official notice it taken that it would have been obvious to one of ordinary skill in the art at the time the invention was made that it is a business choice on who the customers are for using the system. One of ordinary skill in the art can modify EColor in view of Bernard for auction service providers like Ebay to display color corrected images to the bidders, and, the images will represent auction items, and the destination clients will include auction buyers.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify EColor in view of Bernard for auction sellers to market the product on online auctions service providers.

Regarding claims 6, 21 and 41, it would have been obvious to one of ordinary skill in the art at the time the invention was made to EColor in view of Bernard teaches source clients include, and the images represent photographs taken by the photographers (e.g. customers selling articles on online auction service like Ebay takes a photograph of the item to be posted on EBay website).

Regarding claims 8, 25 and 44, EColor in view of Bernard teaches characterizing colorimetric responses of display devices associated with source clients and destination clients by delivering a series of web pages to the source and destination clients that guide the client through a color profiling process. EColor in view of Bernard teaches:

guiding the clients through the color profiling process by delivering a series of web pages to the clients [page 11];

EColor does not specifically teach generating web cookies (design choice to elect what technology to use for storing customer specific information) for the clients containing information representing the results of the color profiling process. However, EColor teaches hosting clients images and deliver perfectly color images to their customers. It would have been obvious to one of ordinary skill in the art at

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the time the invention was made that EColor has the capability of knowing client's customers computer systems to be able to transmit corrected information to them.

EColor does not specifically teach transmitting the web cookies to a network server for use in the modification of the color images. However, EColor teaches hosting clients images and deliver perfectly color images to their customers. It would have been obvious to one of ordinary skill in the art at the time the invention was made that EColor has the capability of knowing client's customers computer systems to be able to transmit corrected information to them., and, transmits corrected color images based on the information about client's customers stored on EColor servers.

Regarding claims 9, 26, 27 and 45, EColor in view of Bernard does not specifically teach network server modifies the color images based on the contents of the web cookies. However, EColor teaches hosting clients images and deliver perfectly color images to their customers. It would have been obvious to one of ordinary skill in the art at the time the invention was made that EColor has the capability of knowing client's customers computer systems to be able to transmit corrected information to them., and, transmits corrected color images based on the information about client's customers stored on EColor servers.

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Regarding claims 10, 28 and 46, EColor in view of Bernard teaches the network server resides on the World Wide Web, and the color images form parts of web pages received by the clients from the network server (EColor teaches to provides services over the World Wide Web).

Regarding claim 24, Ecolor in view of Bernard teaches color profiling process includes estimating a gamma for each of the display devices [EColor, page 18 – 23].

Regarding claim 35, EColor in view of Bernard teaches program code is contained both in physical data storage media (e.g. html stored on server hard-drive) and signals transmitted between the client and other resources on the computer network (e.g. html transmitted from server to client).

Claims 11 – 15, 29 – 34, 47 – 50 and 74 are rejected under 35 U.S.C. 103(a) as being unpatentable over EColor Incorporated hereinafter known as EColor in view of Bernard et al. US Patent 6,744,448 hereinafter known as Bernard and eBay.

Regarding claims 11, 29, 47 and 48, EColor in view of Bernard does not specifically teach calculating a fee for each modified image (charging fee for each item serviced by EColor). However, eBay teaches system and method for providing online services, and, charging fee to users for providing services to users.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify EColor in view of Bernard as taught by eBay to generate revenue to keep system operational.

Regarding claims 12 and 30, EColor in view on Bernard and eBay teaches permitting the source clients to specify whether the color images are to be modified (EColor does not say that once the customer signs up with EColor, they have to send all images through EColor); and charging the fee to the source clients in the event modification of the color images is specified (responded to earlier in response to claim 11).

Regarding claim 13, EColor in view of Bernard and eBay teaches permitting the destination clients to specify whether the color images are to be modified (customer has choice to configure their system with EColor) [page 11]; and charging the fee only in the event modification of the color images is specified (responded to earlier in response to claim 11).

Regarding claims 14, 31 and 49, EColor in view of Bernard does not specifically teach source clients are auction sellers (business choice to elect type of users). However, eBay teaches sellers who use eBay are auction sellers.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify EColor in view of Bernard as taught by eBay

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and limit sellers to auction sellers to use the system and method in electronic auction market.

EColor in view of Bernard and eBay teaches the images represent auction items (obvious when sellers are auction sellers), and the destination clients are auction buyers (obvious when buyer is bidding on auction items), calculating a fee for each modified image, and charging the fee to one or both of the source and destination clients involved in an auction sale (responded to earlier in response to claims 11 – 14).

Regarding claim 32, EColor in view on Bernard and eBay teaches permitting the source clients to specify whether the color images are to be modified (EColor does not say that once the customer signs up with EColor, they have to send all images through EColor); and charging the fee to the source clients in the event modification of the color images is specified (responded to earlier in response to claim 11).

Regarding claims 33, EColor in view of Bernard and eBay teaches permitting the destination clients to specify whether the color images are to be modified (customer has choice to configure their system with EColor) [page 11]; and charging the fee only in the event modification of the color images is specified (responded to earlier in response to claim 11).

Regarding claims 15, 34 and 50, EColor in view of Bernard teaches does not specifically teach source clients include auction sellers (business choice to elect type of users). However, eBay teaches sellers who use eBay are auction sellers, and buyers who are auction buyers.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify EColor in view of Bernard as taught by eBay and limit buyers to auction buyers to use the system and method in electronic auction market to bring clients for auction sellers.

EColor in view of Bernard and eBay teaches the images represent auction items, and the destination clients include auction buyers, the method further comprising calculating, for each modified image, a fee based on a percentage of the sales amount paid between source and destination clients involved in an auction sale (business choice to decide rules for charging fee), and charging the fee to one or both of the source and destination clients involved in the auction sale (responded to earlier in response to claims 11 – 14).

Regarding claim 74, EColor in view of Bernard and eBay teaches a fee calculation module that calculates and charges a fee to the source clients in the event modification of the color images is specified (charging fee to the user when the user uses the system). eBay teaches sellers pay eBay when they use eBay to list their products over eBay.

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Claims 51 – 52, 54 – 56, 59 – 60, 62 – 64, 68 – 69 and 71 - 72, are rejected under 35 U.S.C. 103(a) as being unpatentable over EColor Incorporated hereinafter known as EColor in view of Bernard et al. US Patent 6,744,448 hereinafter known as Bernard and Schwartz US Patent 6,075,888

Regarding claims 51, 59 and 68, EColor teaches system, method and computer readable medium for delivering accurate color for online images [page 11]. EColor teaches:

characterizing colorimetric responses of display devices associated with destination clients by delivering a series of web pages to the source and destination clients that guide the clients through a color profiling process [page 11]. Ecolor does not teach characterizing colorimetric responses of display devices associated with source clients. However, Bernard teaches system and method for color imaging technology. Bernard teaches conventional methods for color corrected digital images require the characterization of a video system used to create a digital image (source) and the characterization of a video or printing system that is displaying the color corrected image (client). This is typically done by matching the display properties of the source and client, either by mathematical transforms of respective color spaces or by forcing the source and client into a matching color state.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify EColor as taught by Bernard and characterize colorimetric responses of display devices associated with source clients to understand

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what correction needs to be performed on the source image so it is displayed accurately on the destination client.

EColor in view of Bernard teaches:

receiving color images from the source clients via a computer network [page 11];

storing the color images at network server that includes a web server [page 11], wherein the stored images are accessible via a web site maintained by the web server [page 11],

modifying the color images based on the colorimetric responses of the display devices associated with the destination clients;

communicating the modified color images to the destination clients that access the web site via the computer network [page 11].

EColor in view of Bernard does not teach modifying the color images based on the colorimetric responses of the display devices associated with the source clients. However, Schwartz teaches modifying the color images based on the colorimetric responses of the display devices associated with the source clients [abstract].

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify EColor in view of Bernard as taught by Schwartz to convert the source image to a common format to minimize the complexity of image conversion.

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Regarding claims 52, 60 and 69, EColor in view of Bernard and Schwartz teaches modifying the color images at the network server before communication of the color images to the destination clients [EColor page 11].

Regarding claims 54, 62 and 71 EColor in view of Bernard and Schwartz teaches source clients include photographers (business choice to elect type of users), and the images represent photographs taken by the photographers (obvious that photographs take photographs) [EColor page 11].

Regarding claims 55, 63 and 72, EColor does not specifically teach generating web cookies (design choice to elect what technology to use for storing customer specific information) for the clients containing information representing the results of the color profiling process. However, EColor teaches hosting clients images and deliver perfectly color images to their customers. It would have been obvious to one of ordinary skill in the art at the time the invention was made that EColor has the capability of knowing client's customers computer systems to be able to transmit corrected information to them.

EColor does not specifically teach transmitting the web cookies to a network server for use in the modification of the color images. However, EColor teaches hosting clients images and deliver perfectly color images to their customers. It would have been obvious to one of ordinary skill in the art at the time the invention was made that EColor has the capability of knowing client's customers computer

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systems to be able to transmit corrected information to them., and, transmits corrected color images based on the information about client's customers stored on EColor servers.

Regarding claim 56 and 64, EColor teaches color images form parts of web pages received by he destination clients from the web server.

Regarding claim 73, EColor in view of Bernard and Schwartz teaches network server resides on the World Wide Web, and the color images form parts of web pages received by the clients from the network server.

Claims 53, 57 – 58, 61, 65 – 67 and 70 are rejected under 35 U.S.C. 103(a) as being unpatentable over EColor Incorporated hereinafter known as EColor in view of Bernard et al. US Patent 6,744,448 hereinafter known as Bernard, Schwartz US Patent 6,075,888 and eBay.

Claims 53, 61 and 70, EColor in view of Bernard and Schwartz does not teach source clients include auction sellers (business choice to elect type of users), the images represent auction items (business choice to elect what can be traded on system), and the destination clients include auction buyers (business choice to elect type of users). However, eBay teaches source clients include auction sellers (business

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choice to elect type of users), the images represent auction items (business choice to elect what can be traded on system), and the destination clients include auction buyers (business choice to elect type of users).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify EColor in view of Bernard and Schwartz as taught by eBay to use the system and method for electronic auction market.

Regarding claims 57, 65, EColor in view on Bernard, Schwartz and eBay teaches permitting the source clients to specify whether the color images are to be modified (EColor does not say that once the customer signs up with EColor, they have to send all images through EColor); and charging the fee to the source clients in the event modification of the color images is specified (responded to earlier in response to claim 53).

Regarding claims 58, 66, EColor in view of Bernard, Schwartz and eBay teaches permitting the destination clients to specify whether the color images are to be modified (customer has choice to configure their system with EColor) [page 11]; and charging the fee only in the event modification of the color images is specified (responded to earlier in response to claim 53).

Regarding claim 67, EColor in view of Bernard and Schwartz teaches does not specifically teach source clients include auction sellers (business choice to elect type

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of users). However, eBay teaches sellers who use eBay are auction sellers, and buyers who are auction buyers.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify EColor in view of Bernard as taught by eBay and limit buyers to auction buyers to use the system and method in electronic auction market to bring clients for auction sellers.

EColor in view of Bernard, Schwartz and eBay teaches the images represent auction items, and the destination clients include auction buyers, the method further comprising calculating, for each modified image, a fee based on a percentage of the sales amount paid between source and destination clients involved in an auction sale (business choice to decide rules for charging fee), and charging the fee to one or both of the source and destination clients involved in the auction sale (responded to earlier in response to claims 61, 65, 66).

Conclusion

Applicant is required under 37 CFR '1.111 (c) to consider the references fully when responding to this office action.

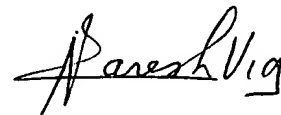
THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Naresh Vig whose telephone number is (571) 272-6810. The examiner can normally be reached on M-F 7:30 - 6:00 (Wednesday off).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Weiss can be reached on (571) 272-6812. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A handwritten signature in black ink, appearing to read "Naresh Vig". The signature is stylized with a large, looped initial "N" and a trailing flourish.

Naresh Vig
Examiner

September 20, 2005